IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1233 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRATAPBHI BHAGVANBHAI MORI - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MM TIRMIZI for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 29/06/2007

ORAL JUDGMENT

Rule. Shri RC Kodekar, learned APP waives service of rule on behalf of the respondent State.

2. By way of this petition under Article 226 of the

Constitution of India, the petitioner,-original complainant has prayed for an appropriate order directing the respondent No.2,- Police Officer in charge of Barvala Police Station to register the FIR at Annexure A and direct the same to be investigated by the State, CID (Crimes).

3. It is the case of the petitioner that earlier the petitioner submitted an application/complaint with the respondent No.2, however, the same was not investigated and therefore, the petitioner preferred Special Criminal Application No.1836 of 2006 and as the petitioner had not approached the higher competent authority, the petitioner withdrew the same with a view to approach the competent authority under the Criminal Procedure Code. It is the contention of the petitioner that considering the provisions of Criminal Procedure Code, the petitioner has approached the DSP, Ahmedabad by application/complaint dated 16-11-06. It is submitted that still neither the said complaint is considered by the DySP nor the DySP has exercised the powers under section 154(3) of the Criminal Procedure Code. Considering the facts and circumstances of the case and the allegations against the police officer of Barvala Police Station, the DySP, Ahmedabad Rural is directed to look into the complaint/application dated 16-11-2006 which is at Annexure A to the petition and exercise the powers under section 154(3) of Criminal Procedure Code and if he is satisfied that such information discloses the commission of cognizable offence, he may either investigate the case himself or direct the investigation to be made by any police officers subordinate to him. He may also consider the fact that the allegations in the complaint are against

the police officers of the Barvala Police Station while taking appropriate decision. The entire exercise to be completed within a period of two months from the date of receipt of this order.

4. With the above observation and direction, the present petition is disposed of. Rule discharged. DS permitted.

(M.R. Shah, J.)

shekhar/-